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# **In the Supreme Court of the United States**

**OCTOBER TERM, 1954**

**ANTHONY TONY SICURELLA, PETITIONER**

**v.**

**UNITED STATES OF AMERICA**

**ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

**BRIEF FOR THE UNITED STATES**

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**BRIEF FOR THE UNITED STATES**

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## **OPINION BELOW**

The opinion of the Court of Appeals (R. 110-115) is reported at 213 F. 2d 911.

## **JURISDICTION**

The judgment of the Court of Appeals was entered on June 15, 1954 (R. 115). On June 28, 1954, the time for filing a petition for a writ of certiorari was extended to August 14, 1954, by order of Mr. Justice Minton (R. 116). The petition was filed on

July 30, 1954, and granted on October 14, 1954 (R. 116). The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

#### QUESTION PRESENTED

Whether there was basis in fact for the refusal of the selective service board to classify petitioner as a conscientious objector in view of the record which supports the conclusion that petitioner, as a Jehovah's Witness, was not opposed to participation in all war, but objected to service because of the fact that it would interfere with his religious activities.

#### STATUTE INVOLVED

Universal Military Training and Service Act, 62 Stat. 604, 612, 619, 622; 64 Stat. 1074; 65 Stat. 75, 86:

Section 6(j) [50 U.S.C. App. 456(j)]:

Nothing contained in this title shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. Any person claiming exemption from combatant training and service because of such conscientious objections whose claim

is sustained by the local board shall, if he is inducted into the armed forces under this title, be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, in lieu of such induction, be ordered by his local board, subject to such regulations as the President may prescribe, to perform for a period equal to the period prescribed in section 4(b) such civilian work contributing to the maintenance of the national health, safety, or interest as the local board may deem appropriate \* \* \*. Any person claiming exemption from combatant training and service because of such conscientious objections shall, if such claim is not sustained by the local board, be entitled to an appeal to the appropriate appeal board. Upon the filing of such appeal, the appeal board shall refer any such claim to the Department of Justice for inquiry and hearing. The Department of Justice, after appropriate inquiry, shall hold a hearing with respect to the character and good faith of the objections of the person concerned, and such person shall be notified of the time and place of such hearing. The Department of Justice shall, after such hearing, if the objections are found to be sustained, recommend to the appeal board that (1) if the objector is inducted into the armed forces under this title, he shall be assigned to noncombatant service as defined by the President, or (2) if the objector is found to be conscien-

tiously opposed to participation in such non-combatant service, he shall in lieu of such induction be ordered by his local board, subject to such regulations as the President may prescribe, to perform for a period equal to the period prescribed in section 4(b) such civilian work contributing to the maintenance of the national health, safety, or interest as the local board may deem appropriate \* \* \*. If after such hearing the Department of Justice finds that his objections are not sustained, it shall recommend to the appeal board that such objections be not sustained. The appeal board shall, in making its decision, give consideration to, but shall not be bound to follow, the recommendation of the Department of Justice together with the record on appeal from the local board. \* \* \*

Section 10(b) (3) [50 U.S.C. App. 460(b) (3)]:

\* \* \* [L]ocal boards \* \* \* shall, under rules and regulations prescribed by the President, have the power within the respective jurisdictions of such local boards to hear and determine, subject to the right of appeal to the appeal boards herein authorized, all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this title, of all individuals within the jurisdiction of such local boards. The decisions of such local board shall be final, except where an appeal is authorized and is taken \* \* \*. The decision of \* \* \* appeal boards

shall be final in cases before them on appeal unless modified or changed by the President.

\* \* \*

Section 12(a) [50 U.S.C. App. 462(a)]:

Any \* \* \* person \* \* \* who \* \* \* refuses \* \* \* service in the armed forces \* \* \* or who in any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in the execution of this title, or rules, regulations, or directions made pursuant to this title \* \* \* shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of not more than \$10,000, or by both such fine and imprisonment \* \* \*.

#### STATEMENT

Petitioner was charged, in a one-count indictment, with refusal to be inducted, in violation of the Universal Military Training and Service Act (R. 5). Petitioner waived a jury (R. 3) and, upon trial, was found guilty by the court and sentenced to two years' imprisonment (R. 15-16). Petitioner conceded the fact of his refusal to be inducted, but contended that there existed no basis in fact for denial of his claim for classification as a minister<sup>1</sup> and of his claim for classification as a conscientious objector (R. 12). The Court of Appeals

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<sup>1</sup> This contention was not pursued in the Court of Appeals or in this Court (R. 111).



for the Seventh Circuit affirmed the conviction (R. 115).

Petitioner's record with the Selective Service System may be summarized as follows:

Petitioner was born on June 13, 1927. He registered on September 11, 1948, stating his occupation as that of a "full time" student. (R. 51-53).<sup>2</sup>

In his classification questionnaire, filed on January 5, 1949 (R. 55), petitioner left blank the space in which he was required to affix his signature if he was a conscientious objector (R. 57). In other portions of the questionnaire, petitioner asserted that he had been a minister of the Jehovah's Witnesses sect for 15 years, regularly serving as such at the time of the questionnaire, and that he had been "formally ordained" in January 1944 (R. 55-56).<sup>3</sup> Petitioner also asserted that he was a student preparing for the ministry at a Kingdom Hall of the sect (R. 56). He stated his occupation as that of file clerk with the Railway Express Agency, and that he had commenced that occupation on June 5, 1948. He was paid \$229.07 per month, and worked an average work week of 44 hours. He stated that he was a regular or permanent employee and ex-

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<sup>2</sup> As appears below, in a form filed later petitioner inconsistently stated that he had been employed in a clerical capacity as of the time at which he here stated that he was a full time student.

<sup>3</sup> The date is set in 1942 by a letter of petitioner's company servant, dated November 7, 1950 (R. 65), in 1940 by petitioner's later conscientious objector's questionnaire (R. 78) filed in February 1951 (R. 76), and in February 1943 by petitioner's testimony before the local board on July 14, 1952 (R. 96).

pected to continue in his work indefinitely. (R. 56-57.)

Petitioner also asserted that his physical condition disqualified him from service, citing "nervousness, chronic appendicitis [sic] and defective hearing" (R. 57-58).<sup>4</sup> At another point in the questionnaire he did not claim IV-F,<sup>5</sup> but stated that his classification should be IV-D, the ministerial classification (R. 58).

He was classified IV-D on March 1, 1949 (R. 58). On September 20, 1950, he was notified to appear before the board on September 26, and thereafter, on October 9, 1950, was classified I-A (R. 58).<sup>5</sup> On October 16, 1950, petitioner requested a hearing, which was granted on November 8, 1950 (R. 58-59, 62-63). With the request for hearing, and at the hearing he presented statements of a number of individuals variously referring to him as "an ordained minister" and as a student minister. None of the statements attested to any objection to war. (R. 60-62, 64-65.) Petitioner also presented a list of biblical citations, as follows (R. 63):

Luke 16:13 Cannot serve God and man

John 18:36 My Kingdom is not of this world

Acts 5:29 One should obey God rather than man

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<sup>4</sup> He was found acceptable for induction on November 27, 1950 (R. 68).

<sup>5</sup> The record does not disclose the details of the appearance before the board, or whether petitioner complied with the notice by appearing.

Exo. 23:32 Make no covenant with their gods

Mat. 7:1-2 Who are you to judge

Mark 16:15 Preach in all the world

Mat. 24:14 This gospel shall be preached

Luke 6:31 Do unto others

Petitioner was classified I-A on November 8, 1950 (R. 59). On his appeal (R. 66), the appeal board, on January 17, 1951, classified petitioner I-A (R. 59). In letters protesting denial of his ministerial classification, petitioner asserted he was already in God's army (R. 69-70) and could not assume the obligations of any army of this world (R. 73-74).

On February 5, 1951, petitioner for the first time requested a form for claim of classification as a conscientious objector as distinguished from a minister (R. 59). In this form, petitioner stated, *inter alia* (R. 77, 81-82):

\* \* \* I am already in the Army of Christ Jesus serving as a soldier of Jehovah's appointed Commander Jesus Christ. (2 Tim. 2:3 & 4). Inasmuch as the war weapons of the soldier of Jesus Christ are not carnal, I am not authorized by his Commander to engage in carnal warfare of this world. (2 Corinthians 10:3 & 4, Ephesians 6:11-18) Furthermore being enlisted in the army of Jesus Christ, I cannot desert the forces of Jehovah to assume the obligations of a soldier in any army of this world without being guilty of desertion and suffering the punishment meted out to deserters by Almighty God. Also I follow the

*admonition* given to us at Matthew 22:21 which states: "Render unto *Ceaser* the things that are *Ceaser's* and God's things unto God."<sup>6</sup>

In response to the question as to the circumstances, if any, in which petitioner believed in the use of force, he wrote (R. 77, 82):

Only in the interests of defending Kingdom Interests, our preaching work, our meetings, our fellow brethern and sisters and our property against attack. I (as well as all Jehovah's Witnesses) defend those when they are attacked and are forced to protect such *intersts* and scripturally so. Because in doing so we do not arm ourselves or carry carnal weapons in anticipation of or in preparation for trouble or to meet threats. In doing so I try to ward off blows and attacks only in defense. I do not use weapons of warfare in defense of myself or the Kingdom interests. I do not retreat when attacked in my home or at meeting places, but will retreat on public or other

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<sup>6</sup>Substantially similar language is employed by petitioner in describing the creed or official statement of his sect with respect to participation in war (R. 80). At the trial, petitioner testified that he refused to submit to induction "[b]ecause I thought I was not properly classified and that would not give me the opportunity to carry out my vow to teach \* \* \* [o]r follow the admonition of Jesus as stated in John 18.36:

'My Kingdom is not of this world. If my Kingdom were part of this world then would my servants fight.'

\* \* \* \*

"Not only today am I already in the Army of Chrst serving as a soldier of His, but if I should desert His forces and join another force, it would mean I would be a deserter and then I would be meted out punishment, death." (R. 27.)

property and shake the dust off my feet; so not giving what is holy to dogs and not throwing my pearls before swines. (Matthew 10:14 & 7:6) So I retreat when I can do so and avoid a fight or trouble.

In response to the question asking for a specification of any public expression of his conscientious objection, petitioner referred only to his "water immersion" in January 1940 (R. 78, 82).<sup>7</sup>

Petitioner appended to the form a statement repeating the same statement he made in the form, as follows (R. 82-83):

\* \* \* [I]n being wholly dedicated to Jehovah God through Christ, I have become no part of this world which is governed by political system. Just as Jesus said at John 18:36: "My Kingdom is not of this world." For this important Bible reason I am letting you know that I conscientiously object to serving in any military *establishment* or any civilian arrangement that substitutes for military service.

He also stated that the facts adduced in the form entitled him to classification as a minister (R. 83). After various proceedings, during which petitioner was again given deferment as a minister (R. 59),

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<sup>7</sup> This date conflicts with the date January 1944 specified in petitioner's classification questionnaire in January 1949 (R. 56) and the date of 1942 in the affidavit of petitioner's company servant in November 1950 (R. 65). With respect to membership generally, as distinguished from baptism, petitioner stated that he had been brought up in the sect, both of his parents being members (R. 80).



he was once again classified I-A on March 17, 1952 (R. 59). On appeal reasserting the ministerial exemption, the appeal board on May 21, 1952, classified petitioner I-A (R. 90). Petitioner thereupon wrote, *inter alia* (R. 90-91):

If you do not recognize me to be a minister and in class IV-D, I wish you would give full consideration to my conscientious objector form in which I clearly state that my conscientious objections are based on my ministerial status and religious beliefs \* \* \*.

On July 2, 1952, the state director requested a further personal hearing for petitioner, due to lack of a local board certificate that the written record presented a full summary of all evidence (R. 94-95). After the personal appearance, the board's summary reported only statements relating to the ministerial claim. Petitioner's appeal, after he was again classified I-A by the local board (R. 60), also referred only to the ministerial status and made no charge of bias on the part of the local board (R. 97).<sup>8</sup>

The appeal board determined, on October 22, 1952, that petitioner should not be classified as a

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<sup>8</sup> No contention is raised or argued in the petition for certiorari or the brief on the merits concerning any prejudice on the part of the board, but in the statement of facts in both the petition and the brief, petitioner refers to testimony at the trial in which he alleged that the hearing was "very summary" and "brief", that the board members were prejudiced (this offer of proof was rejected by the court), and that one board member considered himself unable to classify petitioner as a minister because it was "over their head" (Br. 13).

conscientious objector (R. 60). The case was accordingly referred to the Department of Justice and petitioner appeared before a hearing officer. On January 23, 1953, the Department of Justice, in its letter to the appeal board, reviewed petitioner's record and reported the hearing officer's conclusion that petitioner was a sincere conscientious objector (R. 99-101). The Department referred, however, to petitioner's statements that he was "already in the Army of Christ Jesus serving as a soldier," that he relied on the Watchtower society for his religious guidance, and that he believed in the use of force in defending, *inter alia*, "Kingdom Interests", and "our preaching work" (R. 100). The Department concluded (R. 101):

While the registrant may be sincere in the beliefs he has expressed, he has, however, failed to establish that he is opposed to war in any form. As indicated by the statements on his SSS Form No. 150, registrant will fight under some circumstances, namely in defense of his ministry, Kingdom Interests, and in defense of his fellow brethren. He is, therefore, not entitled to exemption within the meaning of the Act.

On February 10, 1953, the appeal board classified petitioner I-A (R. 102). On February 19, he was ordered to report for induction (R. 102-103).<sup>9</sup> On

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<sup>9</sup> On February 26, 1953, petitioner complained to the local board that there were missing from his file "The Legal Booklet, which stresses and points out my reason for [IV-D classi-

March 5, 1953, petitioner refused to be inducted (R. 104-105).

#### SUMMARY OF ARGUMENT

The government disagrees sharply with petitioner's concept of the issues as represented in his brief, *i.e.*, his assumption that the classification of conscientious objector was denied, first, because of petitioner's belief in personal self-defense, or, second, because it was assumed that he would refuse to perform the civilian work required of conscientious objectors even if so classified. The first misconception stems from petitioner's undue emphasis on a portion of the recommendation of the Department of Justice (R. 101) as having condemned petitioner's "legal and Biblical right of self-defense." (Pet. Br. 15, 18-20, 21-22.) The Department was not concerned with petitioner's protestations as to personal self-defense standing alone but with the willingness of petitioner—specifically referred to in addition to defense of property and meetings (R. 77)—to use force in defense of "Kingdom Interests," his ministry, and his fellow brethren.

Similarly, the government at no point supported the denial of a classification merely because a registrant might later refuse to perform work in the national interest. The only possible source for such misapprehension appears to be petitioner's mis-

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fication],” also “the out-come of or from the hearing” before the Department of Justice hearing officer, and the F.B.I. report “which I have the right to see” (R. 103). He also complained that the board had failed to recognize his claim of classification as a conscientious objector (R. 104).

reading of the opinion below which relied upon his own utterances of complete objection to any and all governmental interference with his time as constituting evidence of something other than—and far removed from—an objection to war itself.

The issue which the government discusses in this brief is whether petitioner's manifest motive to avoid all governmental interference with his religious activities, coupled with his support of the Jehovah's Witnesses' disavowal of pacifism, constitutes some evidence in support of the Board's denial of his claim of conscientious objection, on the theory that the claim is not based on the kind of abhorrence to all war to which the statute relates. The statutory provision is a specific exemption, deriving its earliest analogies from colonial exemptions from the actual bearing of arms, and never extended beyond the clear and simple concept of a religious objection directed precisely and unqualifiedly against participation in war as such. The language makes no exception for the registrant who opposes a particular war, but admits that he or his sect may find some future flesh-and-blood war, like certain past wars, to have the approval of Jehovah. The exemption, moreover, has not been extended to the entirely different objection against any interference with the time which a registrant feels he should devote to religious activity even though he might, in roundabout fashion, find war objectionable, not as war, but as an inroad on his time. That type of exemption is available only to ministers.

Analysis of petitioner's statements shows that his

objection is not the unqualified and unchanging religious objection to war accorded special treatment by the statute, but only a conditional objection, reserving always the chance of participation in a war which, upon the finding of petitioner or of the Watchtower Society, is believed to be approved by Jehovah. This reservation, in effect, of the right of petitioner or his sect, rather than of Congress, to call for petitioner's participation in war, and the consequent absence of a complete religious objection to war as such, is not negated by petitioner's obscure general statements espousing non-carnal weapons—general statements principally intended to describe only petitioner's current preaching efforts. Nor can petitioner's statements of belief in force on behalf of "Kingdom Interests" be deemed mere espousals of individual self-defense. They are expressions appropriate only to the large-scale employment of force which is war.

The analysis of petitioner's statements further reveals that the essence of petitioner's objection is not even related to war but is, rather, that the government should not take petitioner away from his religious activities—from his own chosen service as a "soldier" in Jehovah's army. As stated above, this type of general objection to the interruption of religious activities caused by war is beyond the scope of the exemption granted by Congress.

#### ARGUMENT

The government sharply disagrees with petitioner's concept of the issues as represented in the primary thrust of his brief, *i.e.*, his assumption that



the classification of conscientious objector was denied, first, because of petitioner's belief in personal self-defense, or, second, because it was assumed that even if registrant were classified as a conscientious objector he would refuse to perform civilian duties assigned to him. The first misconception stems from petitioner's undue narrowing of the recommendation of the Department of Justice to represent the Department as having condemned petitioner's "legal and Biblical right of *self-defense*." (Pet. Br. 15.) The Department did not express itself as concerned with petitioner's protestations as to personal self-defense standing alone but with the willingness of petitioner—specifically referred to in addition to defense of property and meetings (R. 77)—to use force in defense of "Kingdom Interests," his ministry, and his fellow brethren. And neither the selective service board, nor the court, nor the Department of Justice supported or supports the denial of the classification of a conscientious objector on the ground that a registrant would later refuse to perform work in the national interest. The only possible source for such an astounding misapprehension seems to be the holding of the court below that petitioner's own utterances, of complete objection to any and all governmental interference with his time, constitute evidence of something other than—and far removed from—an objection to war itself.

The government takes the position that petitioner's willingness to fight in defense of "Kingdom Interests", particularly when those words are con-

sidered in the light of the teachings of his sect, shows, not an unqualified opposition to all war, but a conditional objection to such wars as are not considered by himself or his sect to be sanctioned by Jehovah. And the government also takes the position that the core of petitioner's objection is not opposition to war, but unwillingness to accept any intrusion upon the time which he desires to devote to his religious obligations, an objection which the government does not regard as within the exemption granted by Congress. These two factors, in the view of the government, are sufficient basis in fact for denial of petitioner's claim to classification as a conscientious objector. Those are the issues which are really in this case and those are the issues we discuss below.

**The Exemption for Conscientious Objectors Does Not Apply to a Jehovah's Witness Whose Objection to War Is Not Total But Is Subject to Reservations in the Case of "Kingdom Interests", nor to an Objection Primarily Directed Against Interference With a Registrant's Devoting Part of His Time to Religious Activity.**

*A. The statutory exemption for conscientious objectors is limited to those who, on religious grounds, are specifically and unconditionally opposed to any form of warfare.*

The significant language, for present purposes, of Section 6(j) of the Universal Military Training and Service Act is its first sentence reading as follows:

Nothing contained in this title shall be construed to require any person to be subject to

combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form.<sup>10</sup>

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<sup>10</sup> So far as is pertinent to the issues in this case we have discovered no indication in the congressional reports of any special meaning to this provision other than the words naturally carry. As to the 1940 Act, S. 4164 and H.R. 10132, 76th Cong., 3d Sess., provided (sec. 7(d)) for noncombatant service by "a member of any well recognized religious sect whose creed or principles forbid its members to participate in war in any form, if the conscientious holding of such belief by such person shall be established." At the hearings before the Senate Committee on Military Affairs in July, 1940 (76th Cong., 3d Sess.), there were few references to the provision. As examples, the editor of the Catholic Worker protested, without challenge by the committee, that the provision would protect only Quakers, Mennonites and Dunkards, but not Catholics (p. 156). Representatives of the Society of Friends and other groups urged, *inter alia*, the handling of conscientious objectors by civilian authority and the complete exemption of those opposed to all service (p. 164; and see pp. 189-191, 196-198 [Seventh Day Adventists], 308-325). The reports on S. 4164 and H.R. 10132 (August 5 and 29, 1940, 76th Cong., 3d Sess., S. Rep. 2002, p. 3, H. Rep. 2903, p. 5) only summarized the then Sections 5(d) and (e), respectively, using the phrase "opposed to participation in war in any form." The conference reports (Sept. 12, 1940 and Sept. 14, 1940, 76th Cong., 3d Sess., H. Rep. 2937, pp. 17-18, H. Rep. 2947, pp. 17-18) added no discussion of the basic criteria of conscientious objection. The discussion was concerned with reducing Department of Justice hearings to occasions where an appeal board had acted.

A summary of the 1948 Act (80th Cong., 2d Sess., Senate Committee Print, (p. 5) states, "The act contains detailed wording as to the criteria which apply in determining whether or not an individual is in fact conscientiously opposed to military service by reason of religious training and belief." The report of the House committee (May 7, 1948, 80th Cong., 2d Sess., H. Rep. 1881, p. 10) refers only briefly to deferment of conscientious objectors, the provision under H.R. 6401 (p. 18, sec. (k)) having been for either noncombatant service or

The language of this Court with respect to the burden of proving a ministerial exemption in *Dickinson v. United States*, 346 U.S. 389, 395, is equally applicable here; since the provision "is a matter of legislative grace, the selective service registrant bears the burden of clearly establishing a right to the exemption." Petitioner does not establish that

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deferment. The report accompanying S. 2655 (May 12 [legislative day May 10], 1948, 80th Cong., 2d Sess., Senate Rep. No. 1268, p. 14) states that the provision as to conscientious objectors "reenacts substantially the same provisions as were found in subsection 5(g) of the 1940 act \* \* \* (See *United States v. Berman*, 156 F. 2d 377 [C.A. 9], certiorari denied, 329 U.S. 795). \* \* \* The exemption is viewed as a privilege. Therefore, where a registrant who has been assigned to work of national importance purposefully fails to comply with the duties imposed upon him, provision is made for withdrawing the privilege \* \* \*." The conference report (June 19, 1948, 80th Cong., 2d Sess., House Rep. No. 2438, p. 48) refers only to the Senate provision that objectors opposed to noncombatant service be assigned to work of national importance, which provision was dropped, this Act providing for deferment in such cases.

In 1951, the report of the Senate committee (February 21, 1951 (legislative day, January 29, 1951) 82d Cong., 1st Sess., S. Rep. No. 117, p. 69), said of the then proposed provision of S. 1 concerning conscientious objectors that it "returns to the language used in the 1940 act," providing for work of national importance by objectors to noncombatant service. The House report (82d Cong., 1st Sess., H. Rep. No. 271, pp. 33-34) adds no discussion of the basic criteria of conscientious objection, since the House amendments with respect to deferments (*ibid.*, pp. 5-7) did not include any proposed revision of the language concerning conscientious objectors. The conference report of May 31, 1951 (82d Cong., 1st Sess., H. Rep. No. 535, pp. 19-20) contains no discussion of the criteria of conscientious objection, but outlines only the new requirement that objectors to noncombatant service perform work of national importance. The House managers had objected until language was agreed upon which would not provide for national work camps.

he is within the statutory provision by showing a situation he deems as meritorious as that for which Congress has felt it proper to provide an exemption. As was said in *Berman v. United States*, 156 F. 2d 377, 382 (C. A. 9), certiorari denied, 329 U. S. 795, with reference to an attempt to extend the conscientious objector provision to non-deistic objection to war:<sup>11</sup>

[The phrase] \* \* \* cannot be deprived of its effectiveness by specious reasoning that something which to its user is more acceptable than some other thing is therefore the same thing.

The special provision here involved represents only a very limited expansion of the basic colonial concept of an exemption from "bearing arms" <sup>11a</sup> or "to trayne, arm or fight, to kill." <sup>12</sup> This concept

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<sup>11</sup> This is the only court decision cited on conscientious objection in the official congressional reports (May 12, 1948, S. Rep. 1268, 80th Cong., 2d Sess., p. 14).

<sup>11a</sup> Selective Service System, *Conscientious Objection* (1950, Special Monograph No. 11) Vol. I, p. 30 (Pennsylvania, 1757).

<sup>12</sup> *Backgrounds of Selective Service* (1947, Special Monograph No. 1) Vol. II, Part 12, pp. 13-17 (Rhode Island, 1673). And see Special Monograph No. 11, *supra*, Vol. I, p. 33 (Pennsylvania, June 30, 1775, "conscientiously scrupulous of bearing of arms"); pp. 33-34 (Continental Congress, 1775, "people who from Religious Principles cannot bear Arms *in any case*" [*italics supplied*]); p. 36 (Pennsylvania, "conscientiously scrupulous of bearing Arms"); p. 37 (Virginia, 1766, "all the people called Quakers", 1776, "all Quakers and Mennonists"); pp. 39-40 (Pennsylvania, 1838, "conscientiously scruple to bear arms"; Ala., 1819, Texas, 1859, Ill. 1818 and 1870, Iowa, 1846, Ky., 1850, Ind. 1851 substantially the same).



of an opposition to the bearing of arms—actual combatant service—obviously is derived from a literal reading of the Sixth Commandment, “Thou shalt not kill.”

With the Selective Service Act of May 18, 1917 (40 Stat. 76, 78) there appeared the forerunner of the present language, exempting only from combatant service members of any sect which forbids its followers “to participate in war in any form,” the members being required to entertain “religious convictions \* \* \* against war or participation therein.”<sup>13</sup> The 1917 Act gave exemption only from

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Madison's draft of a bill of rights (June 8, 1789) contained a clause (rejected) “no person religiously scrupulous of *bearing arms* shall be compelled to render military service in person”. Sibley & Jacob, *Conscription of Conscience* (1952, Cornell University Press) p. v. In August 17, 1789, the draft of the bill of rights amendments included, with the provision for freedom of speech and press, “the equal rights of conscience.” This was not enacted. Special Monograph No. 11, *supra*, Vol. I, p. 38. The Federal Draft Act of February 24, 1864, 13 Stat. 6, 9, employed the phrases, “conscientiously opposed to the bearing of arms” \* \* \* “conscientious scruples against bearing arms \* \* \* supported by satisfactory evidence that his department has been uniformly consistent with such declaration”. And see Special Monograph No. 11, *supra*, p. 44 (N. Car., 1861, “scruples of conscience against bearing arms”); p. 44 (Virginia, 1862, “bona fide prevented from bearing arms, by the tenets of the church to which [he] belongs”); cf. pp. 45, 48 (Confederate Congress, Oct. 11, 1862, which exempted members of the Friends, Dunkards, Nazarenes, Mennonists, upon payment of fee; all such exemptions were apparently revoked by the act of March 18, 1865).

<sup>13</sup> The text is (40 Stat. 76, 78):

“Sec. 4. \* \* \* nothing in this Act contained shall be construed to require or compel any person to serve in any of the forces herein provided for who is found to be a member of any well-recognized religious sect or organization at present

combatant service; even those who were accepted as conscientious objectors were required to perform noncombatant service as a part of the military forces. Obviously, under that Act the only type of objection given statutory protection was the objection to combat as such.<sup>14</sup>

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organized and existing and whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organizations, but no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant; \* \* \*."

It appears that members of Jehovah's witnesses would not be entitled to exemption if this provision of the 1917 act had remained in effect. In its official publication, the *Watchtower*, for February 1, 1951, (Appendix, *infra*, pp. 44, 52) it is stated (*ibid.*, p. 52). "They are not against war between the nations, and they do not interfere with the war efforts of the nations nor with anyone who can conscientiously join in such efforts. They fight only when God commands them to do so, because then it is theocratic warfare." And the president of the Watchtower Society, H. N. Knorr, is reported by Sibley and Jacob in *Conscription of Conscience* (Cornell Studies in Civil Liberty, 1952), p. 35 as denying "that there was any instruction or command from the central organization to take any particular course of action with respect to conscription and war."

<sup>14</sup> Similarly narrow was the exemption provided with respect to the militia, only shortly before the above 1917 enactment. See the National Defense Act of June 3, 1916 (39 Stat. 166, 197) which provided, and still provides today (see 32 U.S.C. 3), for exemption from combatant duty only on the part of those who because of "religious belief" claim exemption from "military service."

The language of these 1916 and 1917 enactments was not discussed in the congressional reports (64th Cong., 1st Sess.: March 6, 1916, H. Rep. 297; March 16, 1916, S. Rep. 263; May 16, 1916, Conf. Rep., S. Doc. 442. 65th Cong., 1st Sess.: April 19, 1917, S. Rep. 22; April 21, 1917, H. Rep. 17; May 15, 1917, H. Rep. 52; May 16, 1917, H. Rep. 53).

The present law grants an additional exemption from service in a noncombatant capacity within the framework of the military establishment, but only if the registrant establishes, in addition to his objection to participation in war in any form, a further opposition to noncombatant military service. But, if such further exemption is granted, the law requires the registrant to perform civilian work contributing to the national interest. Thus, no total exemption from support of the government even during time of war is permitted, though Congress obviously recognized that the war effort is supported by, and dependent upon, the general economy. Thus under the present law, as in the past, the conscientious objection which is protected is that which is directed against participation in military operations as such.

It is obvious that an exemption conditioned upon the specific objection to participation in war cannot be granted when all that is established is a general unwillingness by a registrant to leave his religious pursuits. It is given to those who have religious scruples against war, not to those who have a religious call for preaching. The latter can qualify for exemption only if they fulfill the requirements for the ministerial classification.

Nor is the exemption granted to those whose objection to war is conditional and is directed merely against war as declared by the congressional representatives of the people of the United States, as distinguished from war—equally sanguinary—deemed by the registrant or the leaders of his sect

to be at the behest of Jehovah.<sup>15</sup> The objection must be to participation in war, not in a particular war.

*B. Petitioner's statements disclosed such limitations on his opposition to participation in war as to fall short of the exemption*

In evaluating petitioner's actual statements, the government unequivocally states that it would not urge denial of petitioner's status as a conscientious objector if his utterances disclosed nothing more than a willingness to participate in some hypothetical spiritual conflict of Jehovah and his angels against Satan. Moreover, while the Court of Appeals below attached significance to petitioner's willingness to use force in self-defense, it is not necessary to consider whether in this case the registrant's position on self defense would, by itself, be so inconsistent with his claim of conscientious objection as to serve as a basis in fact for a denial of his claim. In the portion of the special form for conscientious objectors in which petitioner was required to answer as to his belief in the use of force, "if any", he asserted approval of the use of force not only in the common, limited instances of individual self-defense but also "in the interests of de-

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<sup>15</sup> It is not necessary to refer back to Biblical times to find wars which many religious people sincerely believed to be inspired or at least supported by God. Certainly the Crusades enlisted the aid of many who sincerely believed that they were serving a divine cause. The forces of Islam were equally inspired. In World War I many on both sides found religious support for their participation in the conflict.

fending Kingdom Interests” and “fellow brethren”, and stated, “I (as well as all Jehovah’s Witnesses) defend those when they are attacked and are forced to protect such interests and scripturally so” (*supra*, p. 9).<sup>16</sup> It was this language which was the basis of the recommendation by the Department of Justice to the appeal board (*supra*, p. 12) and which the appeal board could properly rely upon as a basis for considering petitioner far short of being a conscientious objector.<sup>17</sup> The board could properly conclude that the defense of the “Kingdom Interests” and fellow brethren by Jehovah’s Witnesses, under this reservation of the authority to use force, would involve more than individual

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<sup>16</sup> The language used by petitioner here, as in other portions of his written and oral statements of position, is subject to a variety of interpretations. However, when the record is read in conjunction with the records in the other Jehovah’s Witnesses cases, *Witmer v. United States*, No. 164, O. T. 1954, for example, it becomes apparent that generally the individuals involved are attempting to repeat the published tenets of the sect as they remember them. The basic question in the case, whatever the terminology used by the registrant, is whether sincere adherence to the tenets of Jehovah’s Witnesses, with no indication that the individual has personal views which go beyond the official pronouncements of his sect, constitutes opposition to war within the meaning of the statute.

<sup>17</sup> It is not correct to say, as is stated in the petition and petitioner’s brief, that the Department of Justice relied upon petitioner’s willingness to employ the “legal and Biblical right of self-defense” (Pet. 11; Pet. Br. 15, 44). The Department’s reference was, instead, to the willingness to use force for the much broader scope of “defense of his ministry, Kingdom Interests, and in defense of his fellow brethren” (R. 101). This language is a far cry from that of the case cited by petitioner (Pet. 12; Br. 27) in which the court refers to “willingness to act in self-defense and then only without weapons” (*United States v. Pekarski*, 207 F. 2d 930, 931 (C.A. 2).

self-defense, and contemplated such mass use of force as could be nothing less than warfare.<sup>18</sup>

Of particular significance in petitioner's statement of the basis for his objections is a list of over a half-dozen biblical quotations which petitioner presented at the time of his personal appearance before the board (*supra*, p. 7). While his primary objective at the time of this appearance was to obtain a ministerial exemption and the quotations were largely to shore up his untenable claim of ministry student or minister, nevertheless it is noteworthy that there was missing from all these citations, and missing from all the citations later advanced in his Special Conscientious Objector's

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<sup>18</sup> At certain places in petitioner's written assertions, usually in connection with biblical quotations (*supra*, pp. 7, 8), petitioner states that he is already serving as a "soldier" of Jehovah but that "the war weapons of the soldier of Jesus Christ are not carnal" (*supra*, p. 8). But these limitations are usually related to petitioner's primary basis of objection that he is a "minister", employing non-carnal, spiritual weapons—i.e., his preaching—to undo the influence of Satan, and that he cannot desert his post in order to serve the *United States* (discussed *infra*, pp. 32-37). The references to non-carnal weapons are not offered as an explanation of the above reservation of the right to use mass force, and they color with an equally 'non-committal' vagueness petitioner's assertion (*supra*, p. 9) that Jehovah's Witnesses do not arm themselves or carry carnal weapons "in anticipation of or in preparation for trouble or to meet threats." This latter would appear to mean only that Jehovah's Witnesses do not believe in preparation in advance of the outbreak of hostilities. In the context of the whole body of petitioner's statements, his one interpolated statement, "I do not use weapons of warfare in defense of myself or the Kingdom interests" (*supra*, p. 9) is probably yet another reference to his past preaching activities; it does not indicate a conscientious scruple against participation in future outright warfare if the future "Kingdom Interests" are served by participation therein.



Form, the one quotation which is the foundation stone of most conscientious objectors (Exodus 20:13): "Thou shalt not kill."<sup>19</sup> Clearly, no absolute observance of this biblical mandate is a part of petitioner's belief.

This conclusion is fortified by reference to the public utterances of record on the part of petitioner's sect. The Department of Justice, in making its recommendations, has always taken the view that it is the individual's own belief, and not the teaching of the sect, which is the governing factor. (See the Department's instructions to its hearing officers reprinted in the Appendix, *infra*, pp. 40-44.) Nevertheless, in determining whether a particular registrant is opposed to participation in warfare on the basis of "religious training and belief", it is impossible wholly to disassociate a registrant from the teachings of his sect, particularly where, as here, the registrant states that his beliefs are those of his sect. Petitioner did not claim that his beliefs differed from or went beyond the view of his sect. He stated that he "as well as all Jehovah's Witnesses" entertained the beliefs he set forth.<sup>20</sup>

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<sup>19</sup> Exo. 23-32, cited by petitioner, "Thou shalt make no covenant with them, nor with their gods", can be read only in the context of the immediately preceding Exo. 23-31, of clearly warlike mien, "And I will set thy bounds from the Red sea even unto the sea of the Philistines, and from the desert unto the river: for I will deliver the inhabitants of the land into your hand; and *thou shalt drive them out before thee*" (italics supplied).

<sup>20</sup> Despite denial of any direction from the central organization to take any particular course of action with respect to selective service, "there seems to have been fairly widespread agreement among followers of the Watchtower Society as to

He specified the source of his beliefs as the Watchtower Bible and Tract Society and the Bible (R. 77).<sup>21</sup>

While the record does not disclose the specific Watchtower publication upon which the petitioner relied, the doctrine of the sect has been disclosed in detail in the petitioner's brief in *Witmer v. United States*, O. T. 1954, No. 164, prepared by the same counsel as here, to which is attached a copy of the Watchtower for February 1, 1951. That publication which appeared shortly before the date of the filing of the Special Form for Conscientious Objectors by the present petitioner contains two articles entitled *Why Jehovah's Witnesses Are Not Pacifists* and *Pacifism and Conscientious Objection—Is There a Difference?*<sup>22</sup> For the convenience of the Court these articles are reprinted in the Appendix to this brief *infra*, pp. 44-76.

The essence of the Witnesses's doctrine is embodied in the following statements of the pronouncement, *Why Jehovah's Witnesses Are Not Pacifists* (Appendix, *infra*, pp. 46, 52):

\* \* \* In all that history of almost six thousand years, *the record fails to show Jehovah's Witnesses accusable of "opposition to war or*

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what the basic doctrine of Jehovah's Witnesses meant for individual conduct." Sibley and Jacob, *Conscription of Conscience* (1952, Cornell University Press), p. 35.

<sup>21</sup> He asserted, for example, that he had presented a Watchtower booklet which later did not appear in his selective service file (R. 103).

<sup>22</sup> This literature exhibits some language appearing almost verbatim in petitioner's replies to questions in the form (e.g., compare Appendix, *infra*, pp. 63, 67, with *supra*, pp. 9, 10).

to the use of military force for any purpose", which is the definition of pacifism.

\* \* \* \* \*

\* \* \* They are not against war between the nations, and they do not interfere with the war efforts of the nations nor with anyone who can conscientiously join in such efforts. *They fight only when God commands them to do so*, because then it is theocratic warfare [Italics supplied].

This is an outright denial of that total opposition to participation in war which is the indispensable statutory requisite. Moreover, the interpretation of Jehovah's command, as prescribed in the pronouncements of this sect, will be made either by the individual or the leaders of the sect so that, in effect, a Jehovah's Witness merely transfers to himself or to the leaders of his sect, instead of Congress, the right to determine whether he shall participate in a war.

The use of the term "theocratic warfare" does not establish that the warfare is merely some spiritual conflict between Satan and the angels. While there are remarks that the war in which the Jehovah's Witnesses may fight are not flesh and blood wars (Appendix, *infra*, pp. 72-73), there are likewise statements to the contrary, extolling the very earthly wars of the ancient Israelites as having been proper for the participation of godly men, since they are deemed by the sect to have been at the behest of Jehovah (Appendix, *infra*, pp. 44-

51). There is a summons to Jehovah's Witnesses to be prepared to participate in a quite reasonably imminent war of Armageddon which, although occasionally referred to at certain points as a distant spiritual conflict of angels and Satan, is as persuasively referred to elsewhere as an outright war of earthly nations sanctioned by Jehovah (Appendix, *infra*, pp. 55-57).<sup>23</sup>

If this future war were deemed only some mythical spiritual conflict of angels and Satan, as distinguished from an outright earthly war in which nations would be physically vanquished, there would be no point in the sect's extensive insistence that Jehovah's Witnesses are not pacifists. A person truly opposed to any war other than some future spiritual conflict of the Deity, and truly opposed to all earthly war, is still a pacifist. The only possible effect of denial of pacifism, in the context of

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<sup>23</sup> For further light on the essentially ordinary concept of earthly warfare embodied in the contemplation of future Jehovah-sanctioned war, see the summary of pronouncements in the Watchtower publication, *The New World* (1942), to be found in Sibley and Jacob, *Conscription of Conscience* (1952, Cornell University Press), pp. 32-34, in which the following theory of the Jehovah's witnesses is set out: The year 1918 was significant for Jehovah's Witnesses because it marked the entry of Jesus into the temple. Thereafter, there appeared to be a brief respite in the violent political struggles of the world. The "King of the North" mentioned in the prophecy of Daniel was the Papacy, which with its German and Central European allies had been defeated in the first world war. But the King of the North (Papacy) began to scheme to regain power, aiding in the destruction of the democracies of Germany and Spain, supporting the bloody dictator of Spain, establishing diplomatic relations with the United States in 1939, and striking—through fascist allies—in Ethiopia, Spain, Austria, and Czechoslovakia. In the end the King of the South

this sect's pronouncements, is to establish the Jehovah's Witness as one who does not oppose war but simply reserves the right to determine which war is the one of which Jehovah approves.<sup>24</sup>

The opposition is thus not to all war, but to wars not sanctioned by the Watchtower Bible and Tract Society which the registrant testified is "God's governing body here on earth." (R. 18.) This essentially leaves it to the religious body or the individual to determine for himself whether a particular war is a righteous one in which he is willing to fight. That is not the kind of opposition to war for which

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(symbolically Egypt, but on the scene of twentieth-century struggle, the alliance of the United States and Great Britain) counter-attacked and the second world war was waged. But this war was not one between a man-idolizing power and a Jehovah-exalting regime and the establishment of a world federation will only see a pooling of the resources of the Northern and Southern kings. Soon afterward, the battle of Armageddon will be fought and Jehovah's Witnesses will emerge triumphant with Jehovah.

It will thus be observed that the biblical imagery of the sect is applied by it to ordinary national events, and that the future war "of Armageddon" in which Jehovah's Witnesses can, without conscientious scruple, participate, may similarly be found to be some completely flesh-and-blood war in which the sect finds an approved purpose as the embodiment of one of the symbolical names.

<sup>24</sup> *Taffs v. United States*, 208 F. 2d 329 (C.A. 8), certiorari denied 347 U.S. 928, and the decisions cited by petitioner which follow it are all based on the concept that "theocratic war" as used by the Jehovah's Witnesses is not a true war. The decisions do not analyze what was intended by that term, or the extensive correlations in Jehovah's Witness doctrine between the instances, past and future, in which the term did apply, and could again apply, to a perfectly earthly flesh-and-blood war between nations. Some of the decisions, although citing *Taffs*, do so inappropriately in that the particular registrants, while perhaps espousing the general doctrines of the sect, nevertheless specifically superimposed their own personal

Congress has granted an exemption. Congress has enacted an exemption clearly designed only for those truly possessed of a deep abhorrence of war itself.

*C. The essence of petitioner's objection is not opposition to war but rather to any governmental inroad on petitioner's religious activities.*

A further and more far-reaching reason for the denial of petitioner's claim to classification as a conscientious objector appears in the record. Viewed in their entirety, petitioner's statements show not only that petitioner has, at most, a highly qualified and variable objection to war, but that the objection to war is not the essence of his resistance at all. The opposition of petitioner is in fact an objection to any and all governmental authority to require anything of him that will take him away from the time he chooses to devote to his religious activities. As aptly summarized by the court below (R. 113):

\* \* \* Statements made by appellant in his SSS Form 150 express an *objection to any and all obedience to secular authority*. Thus he stated that he is "no part of this world which is governed by political systems," that he conscientiously objects "to serving in any military establishment *or any civilian arrangement that*

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belief, which was opposed to the use of force for any but the narrowest personal self-defense. *Schuman v. United States*, 208 F. 2d 801 (C.A. 9); *Jewell v. United States*, 208 F. 2d 770 (C.A. 6); *Pine v. United States*, 212 F. 2d 93 (C.A. 4); *Weaver v. United States*, 210 F. 2d 815 (C.A. 8).



*substitutes for military service*" and that he "cannot desert the forces of Jehovah to assume the obligations of a soldier of this world without being guilty of desertion."

Two things are apparent on the face of these statements, i.e., that appellant sets himself separate and apart from all other persons as immune from the constitutional dictates of the national government and that he is asserting a claim of exemption extending to both military and civilian service under the Act, a claim which goes beyond the statutory exemption. 50 App. U.S.C. Sec. 456(j). *These claims are consistent only with objections to any command of governmental authority*, but do not per se establish that deep seated conscientious belief which would entitle appellant to the claimed exemption. \* \* \* [Italics supplied.]

The Court of Appeals for the Ninth Circuit, in two recent decisions, has observed the same attitude and rejected the claims of registrants of this sect to exemption from non-combatant service, citing and following the decision below. *White v. United States*, 215 F. 2d 782 (C. A. 9); *Tomlinson v. United States*, 216 F. 2d 12 (C. A. 9), petitions for certiorari pending this term, Nos. 390 and 391. In both cases the registrants objected to classification as available for noncombatant service in the armed forces<sup>25</sup> and in both cases the court found that their religious beliefs were not an opposition

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<sup>25</sup> They were absolved from combatant service by specifically stated objections to killing.

to noncombatant service but a general opposition to interference with their part-time religious work. In the *Tomlinson* case, *supra*, the Court of Appeals for the Ninth Circuit stated (216 F. at 2d at 18) :

The appeal board may well have been of the view that this registrant is primarily an objector who will have nothing to do with the affairs "of this world." True he is conscientiously opposed to killing; but his real objection to noncombatant service would appear to be its interfering with his carrying the "message" and doing what he chose to call "ministerial work." We think that in drawing the line where it did, it cannot be said that the appeal board acted without basis in fact. The board could well understand from appellant's representations that his objections would include such tasks for a government of "this world" as fighting forest fires or building roads. An objection, on religious grounds, to any assignment which would take the registrant away from his missionary activities, is not an objection which the Act recognizes.

It is not the position of the government that a registrant's broad religious motive to continue religious activity would vitiate a clear objection to war, if one truly existed, but it is apparent in the instant case that the whole and exclusive essence of the refusal to obey the law is an insistence on unlimited choice of time for religious activity. The time required for service under the law is begrudged by

petitioner because of resistance to any interference with petitioner's wishes as to religious activity, and war happens to be the cause of that interference. In other words, petitioner's request is that his religion be accorded a broad, general religious exemption beyond the exemption of ministers—but his belief is one which is not concerned in any reasonably proximate degree with opposition to war.

Thus, in his classification questionnaire (*supra*, p. 6), petitioner failed even to state that he was a conscientious objector, despite the specific instruction in the form, making it mandatory to state that fact.<sup>26</sup> This omission is here adduced, to show the nature of his belief as one in which conscientious objection to war as such played no essential part. Throughout a whole array of documents and protestations, no mention of objection to war appears. In ten affidavits and letters of his fellow sect members and himself not a word concerning objection to war has crept in (R. 60-66, 69-70, 75, 86-87, 97). This, we submit, is not adequately explained away by the fact that petitioner was then trying for the exemption accorded a minister. Had petitioner had the type of real abhorrence to war for which the conscientious objector classification was intended, it would have been natural to announce it, regardless of any other claim for deferment. As a matter

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<sup>26</sup> SSS Form No. 100: "INSTRUCTIONS.—Any registrant who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form *shall* sign the statement below requesting a Special Form for Conscientious Objector (SSS Form No. 150) from the local board. (Italics supplied.)

of fact, the record as a whole makes it clear that petitioner sought the conscientious objector deferment only secondarily and that his real object, and his real basis for seeking such deferment, was to avoid the necessity of submitting to any form of government authority.

Even in the final paragraph of an extensive letter in the last fading try for ministerial exemption, the talk of prior membership in Jehovah's army is adduced only as a basis of ministerial exemption and there is not even a reference to the concurrent claim of exemption as a conscientious objector (R. 72-74). And, as noted *supra* (p. 27), the biblical quotations which petitioner relied upon in his personal appearance before the board conspicuously failed to include the cornerstone of conscientious objection, Ex. 20:13 "Thou shalt not kill."

Finally, the essence of petitioner's basis of refusal is eloquently expressed in the closing phrase, quoted *supra*, p. 10, in which he summarized the whole thrust of his religious belief:

\* \* \* For this important Bible reason I am letting you know that I conscientiously object to serving in any military *establishment* or any civilian arrangement that substitutes for military service.

Objection to war as such does not extend to the condemnation of every and any "civilian arrangement." The religious doctrine which here demands so broad an exemption is one actually and in essence opposed to the according to government of

any time to be taken from participation in religious activity. Congress has granted no religious sect such an exemption directly and no such exemption is to be effected by indirect application of the exemption for conscientious objection to war.

*D. The denial of petitioner's claim to classification as a conscientious objector thus had a basis in fact.*

In light of the foregoing considerations, the Court of Appeals was plainly correct in sustaining the conclusion of the District Court, the selective service appeal board, and the Department of Justice, that petitioner failed to show the conscientious objection required under the narrow statutory exemption. As was clearly enunciated in *Estep v. United States*, 327 U. S. 114, 122-123, and innumerable times thereafter in the decisions of the courts, including the recent affirmation of this Court in *Dickinson v. United States*, 346 U. S. 389, 394:

\* \* \* The provision making the decisions of the local boards "final" means to us that Congress chose not to give administrative action under this Act the customary scope of judicial review which obtains under other statutes. It means that *the courts are not to weigh the evidence to determine whether the classification made by the local boards was justified*. The decisions of the local boards made in conformity with the regulations are final even though they may be erroneous. *The question of jurisdic-*

*tion of the local board is reached only if there is no basis in fact for the classification which it gave the registrant.* [Italics supplied.]

The dissent in *Dickinson*, 346 U.S. 397-401, would go even further in recognizing finality in selective service classifications, but clearly there was no disagreement in this Court that the test was not the customary administrative law rule of "substantial evidence". When the Court had expressed the same position in *Cox v. United States*, 332 U.S. 442 at 448, Mr. Justice Murphy, in his dissent, underlined the significance of the holding of the majority by pointing out (332 U.S. at 457) "Less than a substantial amount of evidence is thus permitted to legalize the classification." and by referring to the majority's ruling as upholding classifications supported by (332 U.S. 458) "an inappreciable amount of supporting evidence \* \* \* a wisp of evidence or a speculative inference."

It is on the basis of these repeated statements of this Court that the court below pointed out that the cases relied upon by petitioner, *Annett v. United States*, 205 F. 2d 689 (C.A. 10); *Taffs v. United States*, 208 F. 2d 329 (C.A. 8), certiorari denied, 347 U.S. 928; *United States v. Hartman*, 209 F. 2d 366 (C.A. 2); and *United States v. Pckarski*, 207 F. 2d 930 (C.A. 2), "rest on an incorrect theory of judicial review, thus rendering their authoritative value speculative" in that they apply a rule of "substantial evidence" (R. 112).

These limitations on court review are the more



to be observed in a case where conflicting and vague utterances are offered in lieu of frank, unqualified abjuring of mass force which is necessary to justify the exemption. The Selective Service System could properly conclude that petitioner had not shown that abhorrence to war which alone is the basis for the statutory exemption.

#### CONCLUSION

For the reasons set forth above, it is respectfully submitted that the judgment of the court below should be affirmed.

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JANUARY 1955.

## APPENDIX

ADDENDUM NO. II TO INSTRUCTIONS BY DEPARTMENT  
OF JUSTICE TO HEARING OFFICERS APPOINTED PUR-  
SUANT TO THE UNIVERSAL MILITARY TRAINING AND  
SERVICE ACT

## “OPPOSITION TO WAR IN ANY FORM”

Members of the Jehovah's Witnesses sect present some of the most difficult conscientious objector cases which come before Hearing Officers under the applicable provisions of the Universal Military Training and Service Act. Many of them rely upon the dogma of that sect with respect to war and pacifism as outlined in various publications of the Watchtower Bible and Tract Society. Among these publications are the February 1, 1951, issue of the *Watchtower* magazine, the November 1, 1939, issue of this periodical and a pamphlet entitled “Neutrality.” They present a defense of the battles of the Old Testament and the future Battle of Armageddon as warfare ordained by Jehovah in behalf of theocratic government. Articles appearing in this literature state emphatically that members of the organization are not pacifists and that they are permitted to fight and kill in defense of themselves, their families, their property, and their spiritual brethren. They may fight whenever “Kingdom interests” are jeopardized, but they should be neutral in worldly conflicts.

It might be helpful to incorporate at this point, several statements appearing in the February 1, 1951, issue of the *Watchtower* referred to above.

The following excerpts which are taken from an article entitled "Why Jehovah's Witnesses Are Not Pacifists" reveal in unmistakable terms the church's thinking on the question of pacifism and its relation to conscientious objection:

"The smearing of us as extreme pacifists is without foundation and is a deliberate lie to provoke prejudice against us . . . Extreme pacifism is not our preachment. We are not pacifists . . . to charge that we are extreme pacifists is a lie.

"As defined by Webster's New International Dictionary pacifism means 'opposition to war or to the use of military force for any purpose; especially an attitude of mind opposing all war, emphasizing the defects of military training and cost of war and advocating settlement of international disputes entirely by arbitration.' Such pacifism not even the Bible itself can be charged with teaching and neither can Jehovah's Witnesses who stick most scrupulously to the Bible."

The article continues by tracing the history of Jehovah's Witnesses to Biblical times and then declares: "In all that history of almost six thousand years, the record fails to show Jehovah's Witnesses accusable of 'opposition to war or to the use of military force for any purpose' which is the definition of pacifism." There follows a discussion and justification of the wars engaged in by the pre-

Christian witnesses of Jehovah. Such conduct is explained and defended in this manner :

“ But you ask how can they be conscientious objectors and not at the same time pacifists ? They are not against war between the nations and they do not interfere with the war effort of the nations nor with anyone who can conscientiously join in such efforts. *They fight only when God commands them to do so because then it is theocratic warfare.*”

These sentiments are reiterated in other Jehovah's Witnesses literature although in different language. Notwithstanding these pronouncements on the subject of war and pacifism, the church maintains that any member who professes to be a conscientious objector does so as a matter of individual conscience and as a result of his independent study of Scripture.

In view of the stand which the church has adopted on this question, the Department of Justice has taken the position that mere membership in this sect is not a basis for granting or denying a conscientious-objector claim. It is entirely possible for a registrant to have an individual personal religious belief that war in any form is ungodly and mere membership in the Jehovah's Witnesses sect will not negate that belief.

The burden of proof is of course upon the registrant to show by clear and convincing evidence that he comes within the provision of section 6(j) of the Universal Military Training and Service Act.

However, it should not be assumed that the registrant has adopted his church's views on warfare as his own, unless he has in some way affirmatively so indicated. He can do this in several ways. He may incorporate in his file any of the periodicals referred to above or other literature of his sect bearing on this subject in order to explain statements appearing in his Conscientious Objector Form. He may also embrace these pronouncements by his own declaration appearing in SSS Form No. 150 or other correspondence in his file. They may be developed by the Hearing Officer during the course of the hearing.

No absolute standard or criterion can be established in this type of claim. Each case stands or falls on its individual merits. It can only be suggested that the Hearing Officer examine very carefully the entire record in order to ascertain whether the particular registrant will participate in warfare under any circumstances. If the registrant's expressions on this point are ambiguous or contradictory then questions should be propounded to him during the course of his personal appearance which will resolve any uncertainties in this regard. If the Hearing Officer feels that the registrant has indicated sincere religious convictions which depart from official church doctrine insofar as it touches upon the question of opposition to participation in war "in any form" then the claim should be sustained. However, if it is concluded that the registrant's statements are merely an acceptance of his church's teaching as it relates to participation in

war in any form, the registrant is not entitled to exemption as a conscientious objector.

It should be noted that if a registrant indicates a willingness to participate in theocratic warfare or war in any other form he is not entitled to a conscientious-objector classification; however, his approval of the use of force under certain circumstances, which force is not in the nature of warfare, does not *per se* disqualify him for such classification. Personal defense of himself, his family, or even his brethren to the extent of killing is an element to be considered in connection with the sincerity of his claim, especially where such claim is based upon the Commandment "Thou shalt not kill," but would not, unless the defense of his brethren is construed to be a common defense amounting to warfare, defeat his claim if the Hearing Officer concludes from all the evidence that his claim is made in good faith.

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## THE WATCHTOWER

Announcing Jehovah's Kingdom

Vol. LXXII

February 1, 1951

No. 3

WHY JEHOVAH'S WITNESSES ARE NOT PACIFISTS

*"Jehovah is a man of war: Jehovah is his name."*

*Ex. 15:3, AS; Yg.*

"JEHOVAH's witnesses! Just a bunch of pacifists!" So a great many people will exclaim with scorn. And so they have been led to think by the charges hurled at these by their enemies. But are the witnesses pacifists, seeking refuge under the cover



of “conscientious objection” because they are afraid to fight? Let us here honestly search for the right and fair answer to this hot question. What have they to say for themselves?

At the 1950 international assembly of Jehovah’s witnesses in Yankee Stadium, New York city, 10,000 foreign delegates were there from more than sixty other lands. Most of these had been subjected to great religious discrimination, embarrassment, hardship and inconvenience because they were obliged to clear themselves of the false charge of “extreme pacifism”. An indignation meeting was held Friday afternoon, August 4, at the assembly, at which the 70,000 American delegates in the presence of these foreign brothers unanimously passed a “Regret and Protest”, and at the close of the afternoon’s session a million copies of this were distributed. This 4-page paper vigorously called attention to the “Discrimination on False Charge of Pacifism” and said: “The smearing of us as extreme pacifists is without foundation and is a deliberate lie to provoke prejudice against us and this international assembly. They have done as the Scriptures prophesied, ‘framed mischief by law.’—Psalm 94:20. Extreme pacifism is not our preaching. We are not pacifists. . . . To charge that we are extreme pacifists is a lie.”

As defined by Webster’s *New International Dictionary* (2d edition, unabridged, of 1943) *pacifism* means: “Opposition to war or to the use of military force for any purpose; especially, an attitude of mind opposing all war, emphasizing the defects of military training and cost of war, and advocating

settlement of international disputes entirely by arbitration." Such pacifism not even the Bible itself can be charged with teaching, and neither can Jehovah's witnesses, who stick most scrupulously to the Bible.

When expressing a judgment upon Jehovah's witnesses people are inclined to think of them as a religious body less than a century old. True, this unique name came into the limelight in 1931, when, by public acclamation, these faithful Christians all over the earth adopted resolutions rejecting the contemptuous names the enemies had tagged onto them and accepting the Scriptural name "Jehovah's witnesses". But their history is much longer than a century. Already in the eighth century before Christ the prophecy declared to God's chosen people: "Ye are my witnesses, saith Jehovah, and my servant whom I have chosen; . . . I have declared, and I have saved, and I have showed; and there was no strange god among you: therefore ye are my witnesses, saith Jehovah, and I am God." (Isa. 43: 10-12, AS) In fact, the history of Jehovah's witnesses runs all the way back to Adam's son Abel, whom his brother Cain killed because Abel had received favorable witness from Jehovah God. The apostle Paul, in chapters 11 and 12 of his letter to the Hebrews, shows that fact. In all that history of almost six thousand years the record fails to show Jehovah's witnesses accusable of "opposition to war or to the use of military force for any purpose", which is the definition of pacifism.

We could go through the list of Jehovah's wit-

nesses from Abraham onward to show they were not pacifists. The apostle Paul tells us about Abraham "returning from the slaughter of the kings" and receiving the blessing of King Melchizedek. (Heb. 7:1-4; Gen. 14:14-21) He tells of Moses who led the Israelites to the borders of the Promised Land. Then he mentions one high light in Joshua's war to purge the Promised Land of the immoral pagan inhabitants, and adds: "And what more shall I say? For the time will fail me if I go on to relate about Gideon, Barak, Samson, Jephthah, David as well as Samuel and the other prophets, who through faith defeated kingdoms in conflict, effected righteousness, obtained promises, stopped the mouths of lions, stayed the force of fire, escaped the edge of the sword, from a weak state were made powerful, became valiant in war, routed the armies of foreigners." (Heb. 11:30-34, NW) Every one that Paul there names was a fighter. Jehovah gave them victory. Only because Jerusalem proved unfaithful to God after repeated warnings by his witnesses Jehovah yielded the Jews over to the Babylonian armies and did not fight for them. He had forewarned them of punishment for disobedience, and so he let that come upon them in vindication of his word.—Deut. 28:36-67.

#### NEHEMIAH, MORDECAI AND ESTHER FIGHTERS

Seventy years the Jews or Israelites were exiles in Babylonian provinces. Did they join the armies of Babylon and fight for its world domination? No; although some Jews, like Daniel and his three He-

brew companions, were taken into the governmental service in spite of their conscientious worship of Jehovah God. Government servants of high rank those three Hebrews might be, yet they refused to violate their conscience and bend to Emperor Nebuchadnezzar's decree and commit idolatry, saluting the image of the political state, the golden image which the dictatorial ruler had set up for united worship by all elements of his empire. (Dan. 3: 1-30) When Babylon was overthrown, the captive Israelites were not mixed in with Babylon's armies fighting against its overthrow. They knew Jehovah's prophecies had foretold its overthrow, and so why fight against fulfillment of divine prophecy, and for an oppressive world power at that?

Under the new rule of the victorious Medes and Persians the aged Daniel was taken into the government service of King Darius the Mede. He became the leading president of all the king's satraps. When the jealous enemies could find no occasion against Daniel except in his faithful obedience to the law of his God Jehovah, then they framed mischief against him by law. Though faced with being thrown into the lion's den, and with his governmental office at stake, Daniel refused to violate his conscience. He did not bow to the imperial law which was against praying to Jehovah and required everybody to look to the political state for everything. Daniel rendered to the emperor only what belonged to him, but to God the worship and obedience that belonged to him. God shut the lions' mouths for him, but those who framed mischief against him by

crafty law were themselves thrown to the lions.—  
Dan. 6:1-28.

Cyrus the Persian succeeded Darius as ruler. In his first year the captive Jews were let return to the site of Jerusalem and rebuild Jehovah's temple. They did not have to fight for their liberation by force of military arms, but Almighty God restored them for his name's sake and because they repented and devoted themselves to his worship. But even after this restoration to their homeland the Jews did not become pacifists.

This fact is noteworthy in the case of Nehemiah. He was a Jew in governmental service as cupbearer and close consultant of the Persian king Ahasuerus. He was made governor of the Jewish province in Palestine and was sent to build good walls for the restored city of Jerusalem. The pagan enemies accused Nehemiah of trying to secede from the empire. "And they conspired all of them together to come and fight against Jerusalem, and to cause confusion therein." What action did Nehemiah take? He did not leave God out of consideration, because he knew that "except Jehovah keep the city, the watchman waketh but in vain". (Ps. 127:1, AS) So the record informs us: "But we made our prayer unto our God, and set a watch against them day and night, because of them. . . . And I looked, and rose up, and said unto the nobles, and to the rulers, and to the rest of the people, Be not ye afraid of them: remember the Lord, who is great and terrible, and fight for your brethren, your sons, and your daughters, your wives, and your houses." From then on

the builders carried on construction of the wall armed with spears, shields, bows, coat of mail, and swords girded at their side. The conspiracy was thus foiled. (Neh. 4:8-23, AS) God's cause was involved and the liberty of his people to worship him freely. That was why those Israelites had chosen to fight. It was not for the glory and power of the Persian empire that they fought. They fought for their brothers who belonged to God's organization and who worshipped him.

In other provinces of the Persian empire there was also no pacifism on the part of the Jews. Over sixty years after the restoration of a Jewish remnant to Jerusalem the Jews throughout the empire were accused by a religious enemy in high governmental position. They were different from all other people; besides the law of the empire they had Jehovah's laws governing their worship of God. So the wicked enemy Haman said: "Their laws are diverse from those of every people; neither keep they the king's laws: therefore it is not for the king's profit to suffer them." And he requested and got a law passed to have them destroyed before ever another passover rolled around.—Esther 3: 8-15 AS.

Under the counsel of Mordecai the Jew, Queen Esther carried a legal fight to the highest judicial figure of the empire, King Ahasuerus himself. At the risk of her own life she pleaded for relief for her people, at the same time exposing the mischievous designs of their religious enemy Haman. The wicked persecutor was hanged on gallows he had built for Mordecai, and Mordecai was advanced to



higher office in the Persian government. By authority of the emperor he wrote a law into the government statutes, providing for the Jews on the fixed day of assault by their foes "to gather themselves together, and to stand for their life, to destroy, to slay, and to cause to perish, all the power of the people and province that would assault them, their little ones and women". Did the Jews pacifistically refuse to act upon this law for their self-defense by force of arms? No! On the 13th and 14th days of their last month Adar, they fought valiantly for the defense of their own lives and those of their brothers. Jehovah God was with them in this and handed them the victory and fulfilled his own prophetic command to have the Amalekites wiped out to a man. The Jews, his witnesses, he used as his executioners.—Esther 8:10 to 9:16; Ex. 17:13-16, AS.

### NO SHIFT TO PACIFISM AT THE WORLD'S END

Many of our readers or public officials may ask: If Jehovah's witnesses of today are linked up in one unbroken chain with those witnesses of ancient times with such a history, why is it that they do not carry out this tradition of military combat? Why are they not found in the ranks of the armies of Christendom? Why do they seek exemption from military service? Why do they go so far as even to refuse to enter the Public Service camps maintained for or by pacifists and conscientious objectors, or take any part in the defense or war effort? Ask Jehovah's witnesses why, and they will tell you it is not because they have turned pacifist.

It is because they have conscientious objection to taking part in such war and defense efforts of Christendom and the rest of the world, their objection being based on God's Word, the Bible. But, you ask, how can they be conscientious objectors and not at the same time pacifists? They are not against war between the nations, and they do not interfere with the war efforts of the nations nor with anyone who can conscientiously join in such efforts. They fight only when God commands them to do so, because then it is theocratic warfare.

Were Jehovah's witnesses today to claim to be pacifists, it would mean for them to denounce all the pre-Christian witnesses of Jehovah who took up arms to uphold Jehovah's universal sovereignty and his theocratic nation of Israel. But this denunciation we cannot make. Jesus Christ never did so, and he is Jehovah's greatest witness, who has earned the title "The faithful and true witness". (Rev. 3:14) Jehovah himself is no pacifist. Neither are his witnesses such, although they are conscientious objectors. Jesus was no pacifist, although there is no record that he ever took up carnal weapons in self-defense. Ah, you say, but did not Jesus make a whip of cords to drive all the commercial vendors from the temple at Jerusalem? Yes, but the record does not say he used this whip on the men who were doing the selling but he used it upon their sheep and cattle which they had brought into that sacred place, "making the house of my Father a house of merchandise."—John 2:13-16, NW.

Again you object, Did not Jesus, after setting up the Memorial with his disciples, tell them before going out to Gethsemane, "Let the one having no sword sell his outer garment and buy one"? And when his disciples said, "Master, look! here are two swords," he said to them, "It is enough." (Luke 22:36-38, NW) Yes; but by this Jesus indicated to them that he was to be seized by an armed band, under circumstances which could provoke armed resistance. The facts that developed showed Jesus did not resort to a sword when his illegal arrest came. Why, then, did he suggest getting a sword and let at least one sword be taken along to Gethsemane? He did it to show that he chose not to resort to armed resistance but would give himself up voluntarily in harmony with his Father's will. Peter tried to put up armed resistance, used the sword and struck off a man's ear. Then Jesus said to Peter: "Return your sword to its place, for all those who take the sword will perish by the sword. Or do you think that I cannot appeal to my Father to supply me at this moment more than twelve legions of angels? In that case, how would the Scriptures be fulfilled that it must take place this way?" (Matt. 26: 52-54, NW) According to John's account Jesus added: "The cup that the Father has given me, should I not by all means drink it?" (John 18:11, NW) So we see why Jesus acted in a way that to some seems like pacifism. He was, however, not going before his Father's court or before the courts of the land on a charge of armed resistance. He did not expose himself to being

killed under armed resistance; he must die willingly, sacrificially, like a lamb led to slaughter.

#### CONSISTENT WITH PROPHECY AND THEIR MESSAGE

Jehovah's witnesses copy Jesus and obey his instructions. That is why they have not joined worldly armies and taken part in the war efforts of the nations in any way. This does not mean they are pacifists opposed to war and resisting it and interfering with worldly governments in prosecuting wars of aggression or of defense. They could not be war-resisters, for they submit to the fulfillment of Jesus' words concerning the consummation of this system of things. Asked by his disciples, "Tell us, When will these things be, and what will be the sign of your presence and of the consummation of the system of things?" he told them: "You are going to hear of wars and reports of wars; see that you are not terrified. For these things must take place, but the accomplished end is not yet. For nation will rise against nation and kingdom against kingdom, and there will be food shortages and earthquakes in one place after another. All these things are a beginning of pangs of distress." (Matt. 24: 3, 6-8, NW) So how could the Christian witnesses of Jehovah oppose worldly wars or try to prevent them since Jesus prophesied that they were certain to be fought? Jesus did not tell them they would be in the fighting. They would merely hear the wars being fought within their earshot or else hear the reports about the wars fought elsewhere.

Were Jehovah's witnesses today to be pacifists

then, to be consistent, they would have to oppose Jehovah's war against the Devil's entire world at the battle front of Armageddon. They have seen the nations of this world assault God's visible organization of his people, prophetically spoken of as "Jerusalem", during the world war of 1914-1918, as foretold in Zechariah. Now they look for the rest of his prophecy to be carried out shortly, namely: "Then shall Jehovah go forth, and fight against those nations, as when he fought in the day of battle. . . . Jehovah my God shall come, and all the holy ones with thee . . . And Jehovah shall be King over all the earth: in that day shall Jehovah be one, and his name one." (Zech. 14: 1-3, 5-9, AS) There will be a great slaughter then, foreshadowed by the slaughter of God's united enemies who were marching to the attack on Jerusalem in the days of King Jehoshaphat. Hence he calls the field of slaughter "the valley of Jehoshaphat" and invites all the nations of this world to come down into it. (2 Chron. 20: 1-25) He issues the command:

"Proclaim ye this among the nations; prepare war; stir up the mighty men; let all the men of war draw near, let them come up. Beat your plowshares into swords, and your pruning-hooks into spears: let the weak say, I am strong. Haste ye, and come, all ye nations round about, and gather yourselves together: thither cause thy mighty ones to come down, O Jehovah. Let the nations bestir themselves, and come up to the valley of Jehoshaphat; for there will I sit to judge all the nations round about. Put ye in the sickle; for the harvest is ripe:

come, tread ye; for the winepress is full, the vats overflow; for their wickedness is great. Multitudes, multitudes in the valley of decision! for the day of Jehovah is near in the valley of decision. The sun and the moon are darkened, and the stars withdraw their shining. And Jehovah will roar from Zion, and utter his voice from Jerusalem; and the heavens and the earth shall shake: but Jehovah will be a refuge unto his people.”—Joel 3:9-16, AS.

Jehovah’s witnesses of today are the ones commanded to make this proclamation to the nations, and this they are doing. So how could they do this and the same time be pacifists?

By his acts since A.D. 1914 Jesus Christ could never be accused of being a pacifist. Why not? Because since that date Satan the Devil and his demons have been cast out of heaven and he has come down to our earth with great wrath, knowing that now he has a short time. The unspeakable woes today smiting earth and sea, coupled with all the other fulfillments of prophecy, prove this fact. How was Satan hurled down here? Revelation 12: 1-12 answers that after the birth of God’s kingdom and the enthronement of his Son Jesus Christ “war broke out in heaven”. No pacifist, it was this King Jesus Christ who battled against Satan and his demons and hurled them down to his footstool, the earth. Now the humiliated Satan is using his demons to drive all the nations to Armageddon for the “war of the great day of God the Almighty”. (Rev. 16: 14-16, NW) But who are Jehovah’s “mighty ones” whom Jehovah brings down to the



“valley of decision” in order to settle forever the paramount issue of world domination? They are the “Lamb of God” and the angels who fought under him in the “war in heaven” against Satan. On earth this lamblike One looked like a pacifist, but now he is the “Lion of the tribe of Juda”. (Rev. 5: 5, 6) To this fearless warrior Psalm 110: 4-6 (AS) says: “The Lord\* at thy right hand will strike through kings in the day of his wrath. He will judge among the nations, he will fill the places with dead bodies; he will strike through the head in many countries.” Read the graphic description of this royal warrior of Jehovah God, at Revelation 19:11-16. Let all the militarized nations know that they will all meet lasting defeat in that universal war of Armageddon and the armaments race will be at last halted for all time.

After Armageddon those who have survived on the winner’s side, Jehovah’s side, will enjoy a perfectly guaranteed peace. Then they will “beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up sword against nation, neither shall they learn war any more”.—Isa. 2:4.

## PACIFISM AND CONSCIENTIOUS OBJECTION

### —IS THERE A DIFFERENCE?

HAVING a good conscience toward God does not make a person a weakling or a coward. Jehovah’s

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\* One of the 134 places where the Hebrew *sopherim* changed the word *Jehovah* in the Hebrew text to *Adonai*, meaning “The Lord”. See *Cath. Conf. Psalms*.

witnesses show courage to follow their conscience in these martial times. It is only due to conscience that they have personally and legally objected before draft boards to participating in the armed conflicts and defense programs of worldly nations. In this course their consciences are not warped, but are instructed in what is right, for they are instructed in the Scriptures, God's Word. With the apostle Paul they say: "I am exercising myself continually to have a consciousness of committing no offense against God and men." (Acts 24: 16, NW) So their consciences are clear, no matter how the militaristic minds of this world may criticize them.

Well, then, if not pacifists, what Scriptural reasons have they given for refusing all part in international war? Repeatedly President Truman of the United States has said he believes in the "sermon on the mount" and that he wants the world to know that Americans believe in the sermon on the mount. Jehovah's witnesses trust that the American president and his colleagues mean the entire sermon. Why? Because it includes not only the so-called "Golden Rule" but also Jesus' words: "You heard that it was said, 'Eye for eye and tooth for tooth.' However, I say to you: Do not resist him that is wicked; but whoever slaps you on your right cheek, turn the other also to him. And if a person wants to go to court with you and get possession of your undergarment, let your outer garment also go to him; and if someone under authority impresses you into service for a mile, go with him two miles. Give to the one asking you, and do not

turn away from one that wants to borrow from you without interest. You heard that it was said: 'You must love your neighbor and hate your enemy.' However, I say to you: Continue to love your enemies and to pray for those persecuting you; that you may prove yourselves sons of your Father who is in the heavens, since he makes his sun rise upon wicked people and good and makes it rain upon righteous people and unrighteous."—Matt. 5: 1, 2, 38-45, NW.

Was Jesus there teaching pacifism? No; but thus he disclosed that his followers must not be disposed to injure anyone else, even under provocation, where merely personal matters are concerned. They should not resort to the Law of Talion or Retaliation, handed down by Moses, at Exodus 21: 23-25 and Leviticus 24: 19, 20. But even where eye was to go for eye, tooth for tooth, life for life, this like for like was not to be exacted personally by the one hurt. The balancing of accounts was to be laid before the legal authorities, rather than for the injured one to take the law into his own hands. That was the law given through Moses. But Jesus Christ is the Prophet whom Jehovah promised to raise up greater than Moses, and so Jesus' law is superior and supersedes the Mosaic law. (Deut. 18: 15-19; Acts 3:20-23) Hence we must heed what he says in the sermon on the mount if we are faithful as his followers.

A real keeper of the sermon on the mount will not resist a wicked person, taking advantage of the law of retaliation to give like for like, injury for injury,

where it is purely a personal affair and where fulfillment of his commission to serve God is not directly involved. The Lord Jesus was struck on the cheek in the Jewish Supreme Court, but did not turn the other cheek, except in a figurative way. He merely said to the officer that slapped his face: "If I spoke wrongly, bear witness concerning the wrong; but if rightly, why do you hit me?" (John 18: 19-23, *NW*) Later in the same court Paul was struck in the mouth for saying: "I have behaved before God with a perfectly clear conscience down to this day." For this legal outrage Paul said to the high priest presiding: "God is going to strike you, you whitewashed wall. Do you at one and the same time sit to judge me in accord with the Law and, transgressing the Law, command me to be struck?" By skillful argument Paul divided the court against itself, so that he was not affected by their judgment but was taken before a Roman court.—Acts 23: 1-11, *NW*.

So Christians must not take the law into their own hands, to return an injury to others. Rather ignore the personal wrong and show the mental attitude of Christ and go on with his service. Let the wicked abuser remember your self-restraint rather than any hurt he might have gotten from you in return, which hurt would prove you are as violent as he is. If the final judgment of a court of last instance goes unfairly against you and it awards more than the personal effects that the person who has taken you to law wanted, let him have, as it were, your upper garment as well as undergarment.

It is a personal case, not forcing you to go contrary to God's law. And so you can show you do not set your affections on perishable material things but have the strength to take personal injuries just as your Leader Jesus did. If some peaceful officer of the government in the discharge of his duties comes upon you and calls on you to render an aid that any other citizen could be called on to render, such as accompanying him as guide for a mile, then be generous. Go with him two miles if it will be to the public's good through his government service. As you accompany him, show him what a witness of Jehovah is in word and practice. Show proper respect for orderly government, even if it is human. Uphold the legal processes of the land and the laws that are not against righteousness and God's law. By loving acts and by prayer show yourself willing to help even your enemies and persecutors to find the way to salvation. Do not let their unjust acts provoke hatred that seeks only for hurt and destruction to befall your personal enemies.

Exodus 22: 2, 3 has been referred to to show that there may be cases where Jehovah's witnesses may show they are not pacifists by killing. According to the *American Standard Version* these verses read: "If the thief be found breaking in, and be smitten so that he dieth, there shall be no bloodguiltiness for him. If the sun be risen upon him, there shall be bloodguiltiness for him." But Moffatt's translation (with which *An American Translation* agrees) reads even more clearly: "If a thief is caught breaking into a house and struck so that he dies, the house-

holder is not guilty; but if it was after dawn, the householder is guilty."

In the darkness of night the burglar could not be identified if he escaped, and so he might be struck to halt him. If the blow was fatal and the breaker-in died, then the person protecting his property was guiltless. But if he broke in during daylight and was struck a fatal blow, then the striker was guilty of killing the thief. It was daylight and he could identify the thief and report him to the Law and have the Law apprehend him and compel him to make restitution and suffer a fine too. But in killing the thief the protector of property was going too far. Certainly all the property that a daylight thief could break in and steal is not equal to the value of his life. In having reparation made for what he stole the Law could not require the thief's life. "What will a man give in exchange for his soul [or, life]?" (Matt. 16: 26, NW, margin) If the daylight thief got away, or if the invading aggressors got away, and the Law never was able or failed to bring them to justice, then though we have suffered the loss of material goods we have not brought bloodguiltiness upon ourselves. So respect for the Law is good.

What is said above in reference to turning the other cheek and submitting to public officials in private or personal matters does not mean that Jehovah's witnesses do not defend the Kingdom interests, their preaching, their meetings, their persons, their brothers and sisters and their property against attack. They defend those when they are



attacked and are forced to protect such interests, and Scripturally so. They do not arm themselves or carry carnal weapons in anticipation of or in preparation for trouble or to meet threats. They try to ward off blows and attacks in defense only. They do not strike in retaliation. They do not strike in offense, but strike only in defense. They do not use weapons of warfare in defense of themselves or the Kingdom interests. (2 Cor. 10:4) While they do not retreat when attacked in their homes or at their meeting places, they will retreat on public or other property and 'shake the dust off their feet', so 'not giving what is holy to dogs' and 'not throwing their pearls before swine'. (Matt. 10:14; 7:6) So they retreat when they can do so and avoid a fight or trouble. They have a right to appeal and do appeal to officers of the law to come to their help in defense against attack or mob violence.

#### HOW THOSE UNDER VOWS PAY BACK WHAT IS DUE

Boards, agencies and officials of the government are told that obedience to instructions in the sermon on the mount does not fit in at all with Jehovah's witnesses' rendering everything to Caesar, thus making such ministers of God obliged to render unquestioning obedience to commanders who do not follow the law of God. But the above instructions from the sermon are only *part* of the compelling reason why Jehovah's witnesses raise conscientious objections to subjecting themselves to military service and why they take advantage

of the provisions allowing exemptions. In the United States of America the Selective Service Act of 1948, which controls the decisions of draft boards and public officials, provides for the deferment of conscientious objectors and also for the exemption of those under vows to God. Section 6 (j) provides for deferment of "any person" whose "training and belief . . . in a relation to a Supreme Being involving duties superior to those arising from any human relation" prevent such person from turning aside from those SUPERIOR DUTIES which he owes to the Supreme Being.

A person cannot become a Christian witness of Jehovah unless he takes a vow by which he fully devotes himself to God through Jesus Christ and so assumes superior duties. He acknowledges God as the Supreme Being and Fountain of life and the Provider of the way to eternal life. (Ps. 3:8; 36:9) He approaches God through Jesus Christ. He acknowledges Jesus as the Son of God who laid down his human life for him, thus providing a purchase price for him. No political state, no "Caesar" or emperor or dictator, can do these things for the dying sinner. And so he does not attribute his debt of life to any political system, but attributes his life to God and seeks to render it to him through Christ. He acknowledges that these Scriptures apply to him: "Ye are not your own. For ye are bought with a price: therefore glorify God in your body, and in your spirit, which are God's." "Ye are bought with a price; be not ye the servants of men." (1 Cor. 6:19, 20; 7:23) So their lives and

their implicit obedience and superior duties they render to God as belonging to him; and they surrender their lives in God's service and not in that of any men.

But Jesus told the Jews, who were in a covenant with God and under vow to him: "Render therefore unto Caesar the things which are Caesar's and unto God the things that are God's." (Matt. 22:21) What, then, are we to render to Caesar? Certainly not our lives, for we never did owe these to Caesar and they do not belong to him. Why, what life Caesar himself possesses he owes to God, not to himself as an immortal god. For this reason authentic history shows that Christians of the first century did not expose their lives to the risks of carnal warfare by joining Caesar's imperial armies, but took the penalty that Caesar imposed for their refusing to be inducted into his armies. In this course those early Christians had Jesus as their example, Leader and Instructor. Jesus lived within Caesar's realm, because by military aggressions imperial Rome had conquered Palestine. After laying down the law for his followers, "Pay back . . . Caesar's things to Caesar" (NW), Jesus himself did not enlist in Caesar's army. He knew that God and Caesar are not friends. That is why Caesar through his governor Pilate put the Son of God to death and thereafter violently persecuted Jesus' followers. Jesus' sermon on the mount says we cannot serve two masters, especially when both masters are foes to each other. Jehovah's witnesses have "taken solemn vows to dedicate their lives

to the service of God” and they are controlled by a “belief . . . in a relation to a Supreme Being involving duties superior to those arising from any human relation”, including any earthly relation to Caesar. So when there arises any conflict between God and Caesar, they yield to these superior duties, just as Peter the apostle said to the Law court: “We must obey God as ruler than men . . . and we are witnesses.”—Acts 5:29-32, NW.

Furthermore, when Jesus told his Jewish questioners, “Pay back Caesar’s things to Caesar,” the matter under discussion was not Caesar’s military draft or voluntary enlistment in his army. Hence Jesus’ answer did not apply to that. What they asked him was this, “Is it lawful to pay tribute to Caesar or not?” and that was why Jesus asked them to show him a “tribute coin” and they showed him a denarius with Caesar’s image and inscription on it. So Jesus declared it was lawful according to God’s law through Moses to pay tax to Caesar even though Caesar had extended his empire by force of carnal weapons and had taken away the independence and liberty of Jehovah’s chosen people. Even a man who conscientiously objected to serving in Caesar’s armies of aggression and of subjugation should pay him taxes as a conqueror. Even if Caesar applied a large part of it to his military program, yet what he did with the money he collected by tax was not the responsibility of the conscientious objector. By Caesar’s taking over the control of the country and the running of the government all the subjugated people were receiv-

ing some material benefits, and for this they were to pay back to Caesar the tax as due him. Consequently the conscientious objector who is in a covenant with God to be His witness, as the Jews were, is not authorized to engage in any subversiveness or to promote a pacifism that would lead to civil disobedience *à la* Mahatma Gandhi.

Because they are wholly dedicated to God by their vows to him through Christ, Jehovah's witnesses are according to God's Word no part of this world which is governed by the political systems. For this important Bible reason they tell officials of the government that they conscientiously object to serving in any military establishment or any civilian arrangement that substitutes for military service. Jesus told Caesar's representative Pilate: "My kingdom is no part of this world. If my kingdom were part of this world, my attendants would have fought that I should not be delivered up to the Jews. But, as it is, my kingdom is not from this source." Then Jesus told Pilate why he had not engaged in any military effort to liberate the Jews from Caesar's domination, saying: "For this purpose I have been born and for this purpose I have come into the world, that I should bear witness to the truth." He came to be Jehovah's witness and to take followers out from this world, and make them Jehovah's witnesses like himself. So he told his apostles: "Because you are no part of the world, but I have chosen you out of the world, on this account the world hates you." And when he prayed to God for them he said: "They are no

part of the world just as I am no part of the world." (John 18:36, 37; 15:19; 17:14, 16, NW) Concerning Jehovah's witnesses whom the world hated and mistreated Hebrews 11:38 (NW) says: "The world was not worthy of them." So because they are no part of this world they are forbidden to meddle and take part in its affairs and controversies. Spiritual Israelites are just as much separated from the nations and their armies as the natural Israelites were.

If their form of worship is to be "clean and undefiled from the standpoint of our God and Father", then they must each one endeavor to "keep oneself without spot from the world". (Jas. 1: 27, NW) They tell the officials that they are absolutely neutral toward the political disputes and the international controversies and combats of this world. They take no active or violent part for either side, but pay their vows to God and always advocate his kingdom and way of salvation.

Like the priests and Levites of Israel who were specially dedicated to Jehovah's service at his temple, they have no inheritance in this world. So they do not fight for territories; and if they suffer loss of property through persecutions by their home government or through invasion of the land by armed aggressors, they trust in God to provide them with life's necessities. As Paul in prison wrote to his fellow witnesses: "You both expressed sympathy for those in prison and joyfully took the plundering of your belongings, knowing you yourselves have a better and an abiding possession."



(Heb. 11: 34, NW) Rather than be killed in the violent endeavor to protect material properties of this world, they preferred to live in a despoiled condition that they might keep on witnessing for God's kingdom and "preach the word" and "be at it urgently in favorable season, in troublesome season". No matter what political or governmental changes may take place over their heads, they in their neutral position are obliged to submit to them and to carry on with God's work the best they can under the altered conditions. They know that God's kingdom, which the sermon on the mount teaches them to pray for and which they preach, will take full charge of all the earth after Armageddon.—2 Tim. 4: 2, NW.

#### GOSPEL MINISTERS AND AMBASSADORS EXEMPT

The consecrated priests and Levites were exempted from conscription for military service in Israel. (Num. 1: 45-54; 2: 32, 33) Since Jehovah's witnesses are consecrated to God as followers of Jesus Christ, they should likewise be exempted from military duties with carnal weapons. God now exempts them not requiring them to fight as did Joshua, Gideon, Samson, Jephthah, Barak and David of ancient times. Jehovah God has made these Christian witnesses his ministers of the Kingdom gospel. In the United States of America the Selective Service Act of 1948 exempts ordained and regular ministers of the gospel from military obligations. But the officers charged with applying that Act allow the exemption only to those who are

full-time ministers, and not to all the rest. But each one of Jehovah's witnesses has as his vocation the ministry and is a minister of the gospel, whether able to render full time or only part time. Not merely the full-time servants among them, but each and every one of Jehovah's witnesses is under a vow of dedication, which involves "duties superior to those arising from any human relation". God's Word therefore appoints each and every one of them a minister of God and preacher of the Kingdom gospel; and officers of the law of the land, while having a legal right to do so, have no Scriptural right to discriminate and limit military exemption only to some, while excluding others. In doing so they must take responsibility before God for 'framing mischief by law'.

Being such ministers and preachers, they have not abandoned their neutrality as conscientious objectors and turned aside to engage in military support of this or that side of any worldly conflict. Jesus predicted their neutrality and their preaching activities at this militant time. When he prophesied, "Nation will rise against nation and kingdom against kingdom," he did not say his true followers would engage in such armed rising. Instead, he foretold they would be roughly treated and be "hated by all the nations", not just enemy nations but all. Then giving Jehovah's witnesses a commission for this day as well as foretelling what type of work they would do, he said: "This good news of the kingdom will be preached in all the inhabited earth for the purpose of a witness to all

the nations, and then the accomplished end will come." (Matt. 24: 14, NW) So now each and every witness who is under vow to Jehovah God through Christ must obey that prophetic command and fulfill his commission as an ordained minister of the good news of the Kingdom. There is no exemption to any consecrated minister. Those taking the lead among them must set the example, and the others must imitate them. (1 Pet. 5: 1-3) These leading ministers do not engage in carnal warfare, but preach. The rank and file of Jehovah's witnesses, being also ministers of God, copy their faithful example and peacefully preach.

To these Christian witnesses the apostle Paul wrote: "He committed the message of the reconciliation to us. We are therefore ambassadors substituting for Christ, as though God were making entreaty through us. As substitutes for Christ we beg: 'Become reconciled to God.' " (2 Cor. 5: 19, 20, NW) As "ambassadors substituting for Christ" Jehovah's witnesses have conscientious objection to serving in the military and related establishments of the nations.

Ambassadors are exempt from military service in the nation to which their government sends them, especially in a hostile nation. Remember, in Bible times ambassadors were sent, not to friendly nations, but to nations at war or threatening war. God's ambassadors substituting for Christ are not sent to friendly nations, but to hostile nations. All nations of this world of Satan are hostile to God. The message given these ambassadors to deliver is,

“Become reconciled to God.” This shows that the nations are not friendly. How, then, could these ambassadors Scripturally serve in the military forces of such nations or Scripturally consent to do so when required by national law? To desert the ranks of His ministers and thus quit preaching would mean to fight against God, who sent his ambassadors that they might call on the nations to become reconciled to God, not fight him. Jehovah’s witnesses are God’s ambassadors sent to ALL the nations, with the same message for all. Consequently they have not enlisted in the fighting forces of any of the nations. They maintain strict neutrality toward such nations in their mortal combats. They keep true to the divine government, which sends them as ambassadors, even though this neutrality and this Kingdom-preaching cause them to be “hated by all the nations”. They have not fought for the unreconciled systems which God will destroy at Armageddon. Hence their conscientious objection!

Concerning these ambassadors the apostle says in this same letter: “Though we walk in the flesh, we do not wage warfare according to what we are in the flesh. For the weapons of our warfare are not fleshly, but powerful by God for overturning strongly entrenched things. For we are overturning reasonings and every lofty thing raised up against the knowledge of God, and we are bringing every thought into captivity to make it obedient to the Christ.” (2 Cor. 10: 3-5, NW) For this spiritual warfare you are ordered: “Take up the com-

plete suit of armor from God"; and such spiritual armor you must take up "that you may be able to stand firm against the machinations of the Devil; because we have a fight, not against blood and flesh, but against the [spiritual] governments, against the authorities, against the world-rulers of this darkness, against the wicked spirit forces in the heavenly places." Satan the Devil is the "ruler of this world" and the "god of this system of things". (Eph. 6:11-13 and John 12:31 and 2 Cor. 4:4, NW) The very application of such military terms in a spiritual way to God's ambassadors shows they are not pacifists.

Their warfare is not against blood and flesh. Their real foes cannot be touched by carnal weapons, and hence they take up God's spiritual armor. They turn their fighting qualities and energies into the spiritual warfare in order to liberate people from the bondage of the wicked spirit forces dominating this world. They are in God's spiritual army under Jesus Christ. For them to desert it and join this world in its fights would be disloyal to God and Christ. It would deserve to be punished with destruction without hope of any life in the righteous new world. They must keep their agreement with God and pay their vow to him, for those who are "false to agreements" are by God's law "deserving of death". (Rom. 1:31, 32, NW) So Jehovah's witnesses keep neutral toward worldly conflicts and obey these strict orders from on high: "As a right kind of soldier of Christ Jesus take your part in suffering evil. No man serving as a soldier involves

himself in the commercial businesses of life, in order that he may meet the approval of the one who enrolled him as a soldier." (2 Tim. 2:3, 4, NW) By this neutral stand toward worldly conflicts and by loyal endurance in the spiritual warfare these soldiers enrolled by Christ meet his approval.

### AN EARTH-WIDE BROTHERHOOD

Since God's ambassadors are sent to all nations with the one message of reconciliation, then all those who become reconciled to him become one earth-wide association of brothers. In just that way Jehovah's witnesses are an international congregation of Christian brothers. God's Word forbids them to split up over selfish interests and start fighting one another; it commands them to keep united and preserve peace among themselves. To emphasize this, the question was asked: "Does Christ exist divided? . . . For whereas there are jealousy and strife among you, are you not fleshly and are you not walking as men do? (1 Cor. 1:13; 3:3, NW) On this account they have not abandoned their neutrality toward this world and joined the armies of this divided world under their enemy Satan the Devil. To do so would have meant to become pitted against their spiritual brothers, the children of God, just as in war Protestant becomes pitted against Protestant, Catholic against Catholic, Jew against Jew. This would have resulted in fratricidal warfare for which they would be held strictly accountable by their heavenly Father. Contrary to taking or seeking to take the life of their



brothers, the sons of God, they are exhorted to lay down their lives for their brothers, in imitation of Jesus Christ and not of Cain who slaughtered his brother Abel. Hence the apostle John writes:

“Do not marvel, brothers, that the world hates you. We know we have passed over from death to life, because we love the brothers. He who does not love remains in death. Everyone who hates his brother is a manslayer, and you know that no manslayer has everlasting life remaining in him. By this we have come to know love, because that one surrendered his soul [or, life] for us; and we are under obligation to surrender our souls [or, lives] for our brothers.”—1 John 3:11-16, NW, margin.

The spirit of Jehovah God is upon his witnesses for them to “preach good tidings unto the meek” and to “bind up the brokenhearted”, rather than to break hearts by carnal combat. Now when the river of life-saving truth is flowing forth from the throne of God’s established kingdom, his witnesses must be like trees whose leaves are “for the healing of the nations” and “for medicine”, rather than wounding the nations. (Isa. 61:1; Luke 4:18; Rev. 22:2; Ezek. 47:12) This is the “surpassing way” of love, the love of God with all that a person has and the love of one’s neighbor as oneself.—1 Cor. 12:31-13:7, NW.

All the foregoing is only a partial statement of the case of Jehovah’s witnesses, which they have made to boards, officials and courts having the responsibility under the law of the land to determine whether they shall be granted the rights given to

conscientious objectors and ministers. But enough has been said to prove to such boards and officials and all others that Jehovah's witnesses are consistent in their claim. They are not pacifists, but are ministers and conscientious objectors on Scriptural grounds. In taking this stand the boards have been enabled to see that Jehovah's witnesses stay neutral toward this world and that they remain God's ministers and ordained preachers of the good news of his kingdom under Christ, with Scriptural and conscientious objection to their participation in worldly war in any form.

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